IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MISSOURI CENTRAL DIVISION

MICHAEL VOGT,)	
on behalf of himself and all others)	
similarly situated,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:16-cv-04170-NKL
)	
STATE FARM LIFE)	
INSURANCE COMPANY,)	
)	
Defendant.)	

STATE FARM'S MOTION FOR STAY OF EXECUTION ON JUDGMENT

Pursuant to Federal Rule of Civil Procedure 62(b), State Farm moves the Court for an Order staying execution of the Court's Amended Judgment entered on January 25th, 2021. On January 21, 2021, State Farm timely filed a petition for a writ of certiorari to the Supreme Court of the United States, seeking review of the Eighth Circuit's opinion affirming in part and reversing in part the October 12, 2018 judgment of this Court. State Farm has also filed an appeal of the November 17, 2020 order of this Court awarding pre-judgment interest. These appellate proceedings have the potential to alter the amount of the Amended Judgment entered in favor of Plaintiff and against State Farm in this Court.

Rule 62 permits an appellant to obtain an automatic stay of a money judgment during the pendency of the appeal as a matter of right by posting an adequate supersedeas bond. *United States v. Mansion House Ctr. Redevelopment Co.*, 682 F. Supp. 446, 449 (E.D. Mo. 1988); *Fed. Prescription Serv., Inc. v. Am. Pharm. Ass'n*, 636 F.2d 755 (D.C. Cir. 1980). "Although the rule provides that the stay takes effect upon the district court's approval of the bond, the party posting the bond is entitled to stay as of right; the court has no discretion to deny the stay itself, but only

to fix the amount of (or to waive) the bond." *Frommert v. Conkright*, 639 F. Supp. 2d 305 (W.D.N.Y. 2009) citing *Am. Mfrs. Mut. Ins. Co. v. Am. Broad-Paramount Theatres, Inc.*, 87 S. Ct. 1, 3 (1966); *Eurasia Int'l, Ltd. v. Holman Shipping, Inc.*, 411 F.3d 578, 585 (5th Cir. 2005) (Rule 62 "provides that a party is entitled to an automatic stay of proceedings to enforce a judgment upon appeal when it posts a supersedeas bond.").¹

The Amended Judgment of January 25, 2021, includes the amount of the jury verdict as amended on October 12, 2018, (\$34,322,414.84), prejudgment interest as awarded on November 17, 2020 (\$4,521,674.38) and post-judgment interest accruing at the rate of 2.23 percent. With the inclusion of two years of additional post-judgment interest after November 17, 2020, the total amount to be secured is \$42,589,122.65. State Farm hereby seeks approval of a bond in the form attached as Exhibit A in this amount to secure the judgment creditors during the pendency of the appeal.

Respectfully submitted,

STINSON LLP

By: /s/ Jeremy A. Root

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¹ Rule 62 was amended effective December 1, 2018, and the provisions relating to a stay of execution were moved from subsection (d) to subsection (b).

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Attorneys for Defendant
State Farm Life Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by the court's ECF filing service on the 16th day of February 2021, which will notify all parties of record.

/s/ Jeremy A. Root